

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

PERSONALIZED MEDIA COMMUNICATIONS, LLC  Plaintiff,  v.	
GOOGLE LLC.  Defendant	Case No.: 2:19-cv-90-JRG

**JOINT NOTICE TO AMEND JOINT PROPOSED PRETRIAL ORDER**

Plaintiff Personalized Media Communications, LLC and Defendant Google LLC hereby serve this notice to amend the Stipulations on Trial Management Procedures in the Joint Proposed Pretrial Order [Docket No. 354]. The amended sections B.2, B.3, B.4, B.5, B.6, and B.7 are as follows:

2. Demonstratives for Opening and Direct Examination. The parties will exchange copies of all forms of demonstratives that they plan to use during direct examination—but not for cross-examination, a party’s examination of its own witness that the opposing party has called adversely, or closing statements—by 6:30 PM Central Time on the night before their intended use. The parties shall exchange objections to these demonstratives by 8:30 PM Central Time on the day the demonstratives are received. Non-substantive corrections of typographical type errors to demonstratives may be made prior to use, as long as these edits or corrections are reasonably disclosed in advance of their use.

- a. Demonstratives that the parties plan to use during opening statements will be exchanged at 5:00 PM Central Time on the night before their intend

use. The parties shall exchange objections to these demonstratives by 8:00 PM Central Time on the day the demonstratives are received.

- b. This stipulation applies to demonstratives specifically created for the purpose of the trial and for illustrative purposes only, and do not include (1) demonstratives created in the courtroom during testimony or opening at trial; or (2) the enlargement, highlighting, ballooning, underlining, or the like, of trial exhibits or transcripts of trial testimony, or transcripts of deposition testimony for which objections have been cleared.
- c. Demonstratives need not be included in the parties' respective exhibit lists.
- d. Neither party will use the other party's own demonstratives before they are used by the disclosing party.

3. Non-Documentary and/or Live Demonstratives. The parties will make available for inspection all non-documentary demonstratives or live demonstratives, such as physical exhibits, physical prior art or physical products, that they plan to use during direct examination or during opening or closing statements—but not for cross-examination or a party's examination of its own witness that the opposing party has called adversely—by 6:30 PM Central Time two nights before their intended use. The parties shall exchange objections to these non-documentary demonstratives or live demonstratives by 8:30 PM Central Time on the night before their intended use. Demonstratives previously displayed in the course of the trial need not be disclosed again.

4. Witnesses. The parties will identify witnesses to be called live and by deposition (in the reasonably anticipated order of call) at 6:30 PM Central Time two nights before the day of trial during which the witnesses are expected to testify.

5. Deposition Designations. For each witness that a party intends to call by deposition, the party shall, by 6:30 PM Central Time two calendar days prior to the date the party intends to call such witness, provide the other side with a list of final designations that will be played. The receiving party shall provide a final list of objections and counter-designations by 8:30 PM Central Time the same day.

- Witnesses presented by video will be divided by the actual time for designations and counter-designations by each party.
- The party who seeks to introduce the deposition testimony will be responsible for preparing the video clips to be played, including the counter-designations made by the other side.
- Any deposition testimony may be used at trial for the purpose of impeachment, regardless of whether a party specifically identified that testimony on its list of deposition designations, if the testimony is otherwise competent for such purpose.

6. Disclosing Exhibits for Use with Witnesses. At 6:30 PM Central Time on the day prior to each trial day, each party will disclose to the other party, for each expected witness, any exhibits that it intends to use with that witness during direct examination. This stipulation does not apply to witnesses called adverse. The parties' disclosures will reflect a good faith estimate of the exhibits that will be used with a particular witness and reasonable efforts will be made to streamline disclosures such that they do not include excessive numbers of exhibits that do not

ultimately get used. At 8:30 PM Central Time on the day prior to each trial day, the non-offering party shall notify the offering party of any objections to the proposed exhibits.

7. Resolution of Objections. The parties will meet and confer regarding any objections at 9:00 PM Central on the night the objections are exchanged. Any unresolved objections will be raised with the Court by email directed to the Court's law clerk(s) no later than 10:00 PM Central Time for resolution the next morning outside the presence of the jury.

Dated: October 29, 2020

Respectfully submitted,

By: s/Joseph S. Grinstein

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**CERTIFICATE OF SERVICE**

I certify that on October 29, 2020, a copy of the foregoing was served on the parties to this action by electronically filing true and correct copies with the Clerk of the Court using the CM/ECF system which automatically sent notification by e-mail of such filing to the counsel of record.

*s/ Joseph S. Grinstein*  
Joseph S. Grinstein